

**Representative Matthew H. Gwynn** proposes the following substitute bill:

**PUBLIC SAFETY DISABILITY BENEFITS AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Matthew H. Gwynn**

Senate Sponsor: John D. Johnson

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**LONG TITLE**

**General Description:**

This bill modifies disability coverage provisions of the Utah State Retirement and Insurance Benefit Act.

**Highlighted Provisions:**

This bill:

- requires a participating employer to provide a benefit protection contract for a public safety service employee or a firefighter service employee if the employee is injured or becomes ill as the result of external force or violence while performing employment duties;
- authorizes a participating employer to provide a benefit protection contract for a public safety service employee or a firefighter service employee for other injuries or illness; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**



AMENDS:

**49-11-404**, as last amended by Laws of Utah 2011, Chapter 366

ENACTS:

**49-14-602**, Utah Code Annotated 1953

**49-15-602**, Utah Code Annotated 1953

**49-23-602**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **49-11-404** is amended to read:

**49-11-404. Benefit protection contract authorized -- Annual report required.**

(1) (a) A participating employer may establish a salary protection program under which ~~[its]~~ the participating employer's employees are paid during periods of disability.

(b) If a salary protection program is established, a participating employer may enter into benefit protection contracts with the office.

(c) A salary protection program shall:

(i) pay benefits based on the rate of compensation of the member with a disability at the time of disability;

(ii) pay benefits over the period of the disability;

(iii) not include settlement or lump sum payments of any type;

(iv) be based upon the member being awarded and receiving ongoing monthly disability benefits that are:

(A) substantially equivalent to the long-term disability programs offered under Chapter 21, Public Employees' Long-Term Disability Act; [and] or

(B) workers' compensation indemnity benefits provided in accordance with Title 31A, Insurance Code; and

(v) comply with requirements adopted by the board.

(2) A benefit protection contract shall allow:

(a) the member with a disability to be considered an active member in a system and continue to accrue service credit and salary credit based on the member's rate of pay in effect at the time disability commences;

(b) the office to require participating employer contributions to be paid before granting

57 service credit and salary credit to the member;

58 (c) the member with a disability to remain eligible during the contract period for any  
59 benefits provided by the system that covers the member; and

60 (d) the benefit for the member with a disability to be improved by the annual  
61 cost-of-living increase factor applied to retired members of the system that covered the member  
62 on the date the member is eligible to receive benefits under a benefit protection contract.

63 (3) (a) The office shall establish the manner and times when employer contributions  
64 are paid.

65 (b) A failure to make the required payments is cause for the office to cancel a contract.

66 (c) Service credit and salary credit granted and accrued up to the time of cancellation  
67 may not be forfeited.

68 (4) For an employee covered under Chapter 22, New Public Employees' Tier II  
69 Contributory Retirement Act, or Chapter 23, New Public Safety and Firefighter Tier II  
70 Contributory Retirement Act, a benefit protection contract shall allow:

71 (a) for the defined benefit portion for a member covered under Chapter 22, Part 3, Tier  
72 II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System:

73 (i) the member with a disability to be considered an active member in a system and  
74 continue to accrue service credit and salary credit based on the member's rate of pay in effect at  
75 the time disability commences;

76 (ii) the office to require participating employer contributions to be paid before granting  
77 service credit and salary credit to the member;

78 (iii) the member with a disability to remain eligible during the contract period for any  
79 benefits provided by the system that covers the member; and

80 (iv) the benefit for the member with a disability to be improved by the annual  
81 cost-of-living increase factor applied to retired members of the system that covered the member  
82 on the date the member is eligible to receive benefits under a benefit protection contract; and

83 (b) for the defined contribution portion for a member covered under Chapter 22, Part 3,  
84 Tier II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System, or  
85 for a participant covered under Chapter 22, Part 4, Tier II Defined Contribution Plan, or  
86 Chapter 23, Part 4, Tier II Defined Contribution Plan, the office to require participating  
87 employers to continue making the nonelective contributions on behalf of the member with a

disability or participant in the amounts specified in Subsection [49-22-303\(1\)\(a\)](#), [49-22-401\(1\)](#), [49-23-302\(1\)\(a\)](#), or [49-23-401\(1\)](#).

(5) A participating employer that has entered into a benefit protection contract under this section shall submit an annual report to the office, which identifies:

(a) the employees receiving long-term disability benefits under policies initiated by the participating employer and approved under the benefit protection contract;

(b) the employees that have applied for long-term disability benefits and who are waiting approval; and

(c) the insurance carriers that are actively providing long-term disability benefits.

(6) If an employer fails to provide the annual report required under Subsection (5), the benefits that would have accrued under the benefit protection contract shall be forfeited.

(7) The board may adopt rules to implement and administer this section.

Section 2. Section **49-14-602** is enacted to read:

**49-14-602. Benefit protection contract.**

(1) As used in this section:

(a) "Objective medical impairment" means the same as that term is defined in Section [49-21-102](#).

(b) "Qualifying injury or illness" means a physical or mental objective medical impairment resulting from external force or violence as a result of the performance of an employment duty.

(2) (a) A participating employer shall provide a benefit protection contract described in Section [49-11-404](#) for any public safety service employee who suffers a qualifying injury or illness as determined in accordance with this section.

(b) A participating employer may elect to provide a benefit protection contract for any other injury or illness of a public safety service employee in accordance with the requirements for providing a benefit protection contract, including the provisions of Section [49-11-404](#).

(3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or workers' compensation indemnity benefits shall determine if a public safety service employee has suffered a qualifying injury or illness, including completing any appeals relating to that determination in accordance with the applicable appeals procedures.

(b) In addition to the annual report requirements under Section [49-11-404](#):

(i) if there is final determination that a public safety service employee has suffered a qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that qualifying injury or illness, the participating employer shall immediately notify the office of the employee's award of that ongoing monthly disability benefit; and

(ii) if the public safety service employee's monthly disability benefit is terminated for any reason, the participating employer shall immediately notify the office of the termination of the monthly disability benefit.

Section 3. Section **49-15-602** is enacted to read:

**49-15-602. Benefit protection contract.**

(1) As used in this section:

(a) "Objective medical impairment" means the same as that term is defined in Section [49-21-102](#).

(b) "Qualifying injury or illness" means a physical or mental objective medical impairment resulting from external force or violence as a result of the performance of an employment duty.

(2) (a) A participating employer shall provide a benefit protection contract described in Section [49-11-404](#) for any public safety service employee who suffers a qualifying injury or illness as determined in accordance with this section.

(b) A participating employer may elect to provide a benefit protection contract for any other injury or illness of a public safety service employee in accordance with the requirements for providing a benefit protection contract, including the provisions of Section [49-11-404](#).

(3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or workers' compensation indemnity benefits shall determine if a public safety service employee has suffered a qualifying injury or illness, including completing any appeals relating to that determination in accordance with the applicable appeals procedures.

(b) In addition to the annual report requirements under Section [49-11-404](#):

(i) if there is final determination that a public safety service employee has suffered a qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that qualifying injury or illness, the participating employer shall immediately notify the office of the employee's award of that ongoing monthly disability benefit; and

(ii) if the public safety service employee's monthly disability benefit is terminated for

any reason, the participating employer shall immediately notify the office of the termination of the monthly disability benefit.

Section 4. Section **49-23-602** is enacted to read:

**49-23-602. Benefit protection contract.**

(1) As used in this section:

(a) "Objective medical impairment" means the same as that term is defined in Section 49-21-102.

(b) "Qualifying injury or illness" means a physical or mental objective medical impairment resulting from external force or violence as a result of the performance of an employment duty.

(2) (a) A participating employer shall provide a benefit protection contract described in Section 49-11-404 for any public safety service employee or firefighter service employee who suffers a qualifying injury or illness as determined in accordance with this section.

(b) A participating employer may elect to provide a benefit protection contract for any other injury or illness of a public safety service employee or firefighter service employee in accordance with the requirements for providing a benefit protection contract, including the provisions of Section 49-11-404.

(3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or workers' compensation indemnity benefits shall determine if a public safety service employee or firefighter service employee has suffered a qualifying injury or illness, including completing any appeals relating to that determination in accordance with the applicable appeals procedures.

(b) In addition to the annual report requirements under Section 49-11-404:

(i) if there is final determination that a public safety service employee or firefighter service employee has suffered a qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that qualifying injury or illness, the participating employer shall immediately notify the office of the employee's award of that ongoing monthly disability benefit; and

(ii) if the public safety service employee's or firefighter service employee's monthly disability benefit is terminated for any reason, the participating employer shall immediately notify the office of the termination of the monthly disability benefit.

181           Section 5. **Effective date.**  
182           This bill takes effect on July 1, 2022.